

## House Bill 300 (COMMITTEE SUBSTITUTE)

By: Representatives Smith of the 133<sup>rd</sup>, Smith of the 134<sup>th</sup>, Hawkins of the 27<sup>th</sup>, and Stephens of the 165<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6 of Title 31 and Chapter 45 of Title 33 of the Official Code of Georgia  
2 Annotated, relating to continuing care providers and facilities and state health planning and  
3 development, so as to redesignate continuing care retirement communities as life plan  
4 communities; to revise definitions; to provide for related matters; to repeal conflicting laws;  
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 6 of Title 31 of the Official Code of Georgia Annotated, relating to state health  
9 planning and development, is amended in Code Section 31-6-2, relating to definitions, by  
10 revising paragraphs (11) and (23.1) as follows:

11 "(11) 'Continuing care retirement community' means an organization, whether operated  
12 for profit or not, whose owner or operator undertakes to provide shelter, food, and either  
13 nursing care or personal services, whether such nursing care or personal services are  
14 provided in the facility or in another setting, and other services, as designated by  
15 agreement, to an individual not related by consanguinity or affinity to such owner or  
16 operator providing such care pursuant to an agreement for a fixed or variable fee, or for  
17 any other remuneration of any type, whether fixed or variable, for the period of care,  
18 payable in a lump sum or lump sum and monthly maintenance charges or in installments.  
19 Agreements to provide continuing care include agreements to provide care for any  
20 duration, including agreements that are terminable by either party Reserved."

21 "(23.1) 'Micro-hospital' means a hospital in a rural county which has at least two and not  
22 more than seven inpatient beds and which provides emergency services seven days per  
23 week and 24 hours per day. 'Life plan community' means an organization, whether  
24 operated for profit or not, whose owner or operator undertakes to provide shelter, food,  
25 and either nursing care or personal services, whether such nursing care or personal  
26 services are provided in the facility or in another setting, and other services, as designated

27 by agreement, to an individual not related by consanguinity or affinity to such owner or  
28 operator providing such care pursuant to an agreement for a fixed or variable fee, or for  
29 any other remuneration of any type, whether fixed or variable, for the period of care,  
30 payable in a lump sum, lump sum and monthly maintenance charges or in installments.  
31 Agreements to provide continuing care include agreements to provide care for any  
32 duration, including agreements that are terminable by either party.

33 (23.2) 'Micro-hospital' means a hospital in a rural county which has at least two and not  
34 more than seven inpatient beds and which provides emergency services seven days per  
35 week and 24 hours per day."

## 36 SECTION 2.

37 Said chapter is further amended in Code Section 31-6-21, relating to Department of  
38 Community Health generally, by revising paragraph (8) of subsection (b) as follows:

39 "(8) To establish, by rule, need methodologies for new institutional health services and  
40 health facilities. In developing such need methodologies, the department shall, at a  
41 minimum, consider the demographic characteristics of the population, the health status  
42 of the population, service use patterns, standards and trends, financial and geographic  
43 accessibility, and market economics. The department shall establish service-specific need  
44 methodologies and criteria for at least the following clinical health services: short stay  
45 hospital beds, adult therapeutic cardiac catheterization, adult open heart surgery, pediatric  
46 cardiac catheterization and open heart surgery, Level II and III perinatal services,  
47 freestanding birthing centers, psychiatric and substance abuse inpatient programs, skilled  
48 nursing and intermediate care facilities, home health agencies, and ~~continuing care~~  
49 ~~retirement life plan~~ community sheltered facilities;"

## 50 SECTION 3.

51 Said chapter is further amended in Code Section 31-6-47, relating to exemptions from state  
52 health planning and development, by revising paragraph (17) of subsection (a) as follows:

53 "(17) ~~Continuing care retirement Life plan~~ communities, provided that the skilled nursing  
54 component of the facility is for the exclusive use of residents of the ~~continuing care~~  
55 ~~retirement life plan~~ community and that a written exemption is obtained from the  
56 department; provided, however, that new sheltered nursing home beds may be used on  
57 a limited basis by persons who are not residents of the ~~continuing care retirement life plan~~  
58 community for a period up to five years after the date of issuance of the initial nursing  
59 home license, but such beds shall not be eligible for Medicaid reimbursement. For the  
60 first year, the ~~continuing care retirement life plan~~ community sheltered nursing facility  
61 may utilize not more than 50 percent of its licensed beds for patients who are not

62 residents of the ~~continuing care retirement~~ life plan community. In the second year of  
63 operation, the ~~continuing care retirement~~ life plan community shall allow not more than  
64 40 percent of its licensed beds for new patients who are not residents of the ~~continuing~~  
65 ~~care retirement~~ life plan community. In the third year of operation, the ~~continuing care~~  
66 ~~retirement~~ life plan community shall allow not more than 30 percent of its licensed beds  
67 for new patients who are not residents of the ~~continuing care~~ ~~retirement~~ life plan  
68 community. In the fourth year of operation, the ~~continuing care~~ ~~retirement~~ life plan  
69 community shall allow not more than 20 percent of its licensed beds for new patients who  
70 are not residents of the ~~continuing care~~ ~~retirement~~ life plan community. In the fifth year  
71 of operation, the ~~continuing care~~ ~~retirement~~ life plan community shall allow not more  
72 than 10 percent of its licensed beds for new patients who are not residents of the  
73 ~~continuing care~~ ~~retirement~~ life plan community. At no time during the first five years  
74 shall the ~~continuing care~~ ~~retirement~~ life plan community sheltered nursing facility occupy  
75 more than 50 percent of its licensed beds with patients who are not residents under  
76 contract with the ~~continuing care~~ ~~retirement~~ life plan community. At the end of the  
77 five-year period, the ~~continuing care~~ ~~retirement~~ life plan community sheltered nursing  
78 facility shall be utilized exclusively by residents of the continuing care retirement life  
79 plan community, and at no time shall a resident of a ~~continuing care~~ ~~retirement~~ life plan  
80 community be denied access to the sheltered nursing facility. At no time shall any  
81 existing patient be forced to leave the ~~continuing care~~ ~~retirement~~ life plan community to  
82 comply with this paragraph. The department is authorized to promulgate rules and  
83 regulations regarding the use and definition of 'sheltered nursing facility' in a manner  
84 consistent with this Code section. Agreements to provide continuing care include  
85 agreements to provide care for any duration, including agreements that are terminable by  
86 either party;"

87 **SECTION 4.**

88 Chapter 45 of Title 33 of the Official Code of Georgia Annotated, relating to continuing care  
89 providers and facilities, is amended by revising Code Section 33-45-1, relating to definitions,  
90 as follows:

91 "33-45-1.

92 As used in this chapter, the term:

93 (1) 'Continuing care' means furnishing pursuant to a continuing care agreement:

94 (A) Lodging that is not:

95 (i) In a skilled nursing facility, as such term is defined in paragraph (34) of Code  
96 Section 31-6-2;

97       (ii) An intermediate care facility, as such term is defined in ~~paragraph (22) of~~ Code  
98       Section 31-6-2;

99       (iii) An assisted living community, as such term is defined in Code Section  
100      31-7-12.2; or

101      (iv) A personal care home, as such term is defined in Code Section 31-7-12;

102      (B) Food; and

103      (C) Nursing care provided in a facility or in another setting designated by the  
104      agreement for continuing care to an individual not related by consanguinity or affinity  
105      to the provider furnishing such care upon payment of an entrance fee including skilled  
106      or intermediate nursing services and, at the discretion of the continuing care provider,  
107      personal care services including, without limitation, assisted living care services  
108      designated by the continuing care agreement, including such services being provided  
109      pursuant to a contract to ensure the availability of such services to an individual not  
110      related by consanguinity or affinity to the provider furnishing such care upon payment  
111      of an entrance fee.

112      Such term shall not include continuing care at home.

113      (2) 'Continuing care agreement' means a contract or agreement to provide continuing  
114      care, continuing care at home, or limited continuing care. Continuing care agreements  
115      include agreements to provide care for any duration, including agreements that are  
116      terminable by either party.

117      ~~(2.1)~~(3) 'Continuing care at home' means the furnishing of services pursuant to a  
118      continuing care agreement at a location other than at a facility and which includes the  
119      obligation to provide nursing care, assisted living care, or personal care home services.  
120      A continuing care at home agreement may, but is not required to, include an obligation  
121      to provide food.

122      ~~(3)~~(4) 'Entrance fee' means an initial or deferred payment of a sum of money or property  
123      made as full or partial payment to assure the resident continuing care, limited continuing  
124      care, or continuing care upon the purchase of a resident owned living unit; provided,  
125      however, that any such initial or deferred payment which is greater than or equal to 12  
126      times the monthly care fee shall be presumed to be an entrance fee so long as such  
127      payment is intended to be a full or partial payment to assure the resident lodging in a  
128      residential unit. An accommodation fee, admission fee, or other fee of similar form and  
129      application greater than or equal to 12 times the monthly care fee shall be considered to  
130      be an entrance fee. Such term shall not include any portion of the purchase or sale of a  
131      resident owned living unit.

132     (4)(5) 'Facility' means a place which is owned or operated by a provider and provides  
133     continuing care or limited continuing care. Such term includes a facility which contains  
134     resident owned living units.

135     (5)(6) 'Licensed' means that the provider has obtained a certificate of authority from the  
136     department.

137     (7) 'Life plan community' means a licensed provider furnishing continuing care or  
138     limited continuing care which has been issued a certificate of authority pursuant to this  
139     chapter.

140     (6)(8) 'Limited continuing care' means furnishing pursuant to a continuing care  
141     agreement:

142         (A) Lodging that is not:

143             (i) In a skilled nursing facility, as such term is defined in paragraph (34) of Code  
144             Section 31-6-2;

145             (ii) An intermediate care facility, as such term is defined in paragraph (22) of Code  
146             Section 31-6-2;

147             (iii) An assisted living community, as such term is defined in Code Section  
148             31-7-12.2; or

149             (iv) A personal care home, as such term is defined in Code Section 31-7-12;

150         (B) Food; and

151         (C) Personal services, whether such personal services are provided in a facility such  
152         as a personal care home or an assisted living community or in another setting  
153         designated by the continuing care agreement, to an individual not related by  
154         consanguinity or affinity to the provider furnishing such care upon payment of an  
155         entrance fee.

156     Such term shall not include continuing care at home.

157     (7)(9) 'Monthly care fee' means the fee charged to a resident for continuing care or  
158     limited continuing care on a monthly or periodic basis. Monthly care fees may be  
159     increased by the provider to provide care to the resident as outlined in the continuing care  
160     agreement. Periodic fee payments or other prepayments shall not be monthly care fees.

161     (8)(10) 'Nursing care' means services which are provided to residents of skilled nursing  
162     facilities or intermediate care facilities.

163     (9)(11) 'Personal services' means, but is not limited to, such services as individual  
164     assistance with eating, bathing, grooming, dressing, ambulation, and housekeeping;  
165     supervision of self-administered medication; arrangement for or provision of social and  
166     leisure services; arrangement for appropriate medical, dental, nursing, or mental health  
167     services; and other similar services which the department may define. Personal services  
168     may be provided at a facility or at a home on or off site of a facility. Personal services

169 shall not be construed to mean the provision of medical, nursing, dental, or mental health  
170 services. Personal services provided, if any, shall be designated in the continuing care  
171 agreement.

172 ~~(10)~~(12) 'Provider' means the owner or operator, whether a natural person, partnership,  
173 or other unincorporated association, however organized, trust, or corporation, of an  
174 institution, building, residence, or other place, whether operated for profit or not, which  
175 owner or operator undertakes to provide continuing care, limited continuing care, or  
176 continuing care at home for a fixed or variable fee, or for any other remuneration of any  
177 type for the period of care, payable in a lump sum or lump sum and monthly maintenance  
178 charges or in installments.

179 ~~(11)~~(13) 'Resident' means a purchaser of or a nominee of or a subscriber to a continuing  
180 care agreement. Such an agreement may permit a resident to live at a home on or off site  
181 of a facility but shall not be construed to give the resident a part ownership of the facility  
182 in which the resident is to reside unless expressly provided for in the agreement.

183 ~~(12)~~(14) 'Resident owned living unit' means a residence or apartment, the purchase or  
184 sale of which is not included in an entrance fee, which is a component part of a facility  
185 and in which the resident has an individual real property ownership interest.

186 ~~(13)~~(15) 'Residential unit' means a residence or apartment in which a resident lives that  
187 is not a skilled nursing facility as defined in ~~paragraph (34)~~ of Code Section 31-6-2, an  
188 intermediate care facility as defined in ~~paragraph (22)~~ of Code Section 31-6-2, an assisted  
189 living community as defined in Code Section 31-7-12.2, or a personal care home as  
190 defined in Code Section 31-7-12."

## 191 SECTION 5.

192 Said chapter is further amended by revising Code Section 33-45-3, related to certificate of  
193 authority required for operation of continuing care facilities, as follows:

194 "33-45-3.

195 (a) Nothing in this title or chapter shall be deemed to authorize any provider to transact  
196 any insurance business other than that of continuing care insurance or limited continuing  
197 care insurance or otherwise to engage in any other type of insurance unless it is authorized  
198 under a certificate of authority issued by the department under this title. Nothing in this  
199 chapter shall be construed so as to interfere with the jurisdiction of the Department of  
200 Community Health or any other regulatory body exercising authority over providers  
201 regulated by this chapter or real property law related to the purchase and sale of resident  
202 owned living units.

203 (b) Nothing in this chapter shall be construed so as to modify or limit in any way:

204 (1) Provisions of Article 3 of Chapter 6 of Title 31 and any rules and regulations  
205 promulgated by the Department of Community Health pursuant to such article relating  
206 to certificates of need for ~~continuing care retirement communities~~ life plan communities  
207 or home health agencies, as such terms are defined in Code Section 31-6-2; or  
208 (2) Provisions of Chapter 7 of Title 31 relating to licensure or permit requirements and  
209 any rules and regulations promulgated by the Department of Community Health pursuant  
210 to such chapter, including, without limitation, licensure or permit requirements for  
211 nursing home care, assisted living care, personal care home services, home health  
212 services, and private home care services.  
213 (c) Nothing in this chapter shall be construed so as to allow private home care services to  
214 be provided by any person or entity other than a licensed private home care provider.  
215 (d) A provider of continuing care at home may contract with a licensed home health  
216 agency to provide home health services to a resident. In order to provide home health  
217 services directly, a provider of continuing care at home shall obtain a certificate of need for  
218 a home health agency, as such term is defined in ~~paragraph (20)~~ of Code Section 31-6-2,  
219 pursuant to the same criteria and rules as are applicable to freestanding home health  
220 agencies that are not components of ~~continuing care retirement~~ life plan communities."

221 **SECTION 6.**

222 All laws and parts of laws in conflict with this Act are repealed.